IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO : 9036 of 2004

Between:

Kovvuri Subba Raju S/o Rama Raju
Geddapalem Village S.Rayavaram Mandal,
Visakhapatnam District.

..... PETITIONER

AND

1 Sri Anna Praneswara Swamy Temple

Lingarajupalem, S.Rayavaram Mandal,

Visakhapatnam District rep. by its Manager

2 The Assistant Commissioner of Endowments

Visakhapatnam, Visakhapatnam District.

3 The Commissioner of Endowments,

Andhra Pradesh, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus;- (i) declaring the notice issued by the 1st respondent dated 28-04-2004 to the extent of proposing to auction the lease hold rights in respect of the land in Survey No.19 admeasuring
Acs.04-76 cents situated at Lingarajupalem, S. Rayavaram Mandal, Visakhapatnam District, for the years 2004-2005 to
2006-07, on 14-5-2004 at 10-00 AM as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the judgment of the Special Officer cum Principal District Munsif, Yelamanchili, dated 21.4.1995 in ATC No.2/1994 and against the lease hold rights which I have been enjoying for the last 30 years and against section 82 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, and set aside the same; consequently. (ii) direct the respondents either to continue my lease as per the condition existing or to sell the land admeasuring 4 acres 76 cents situated in Survey No.19 at Lingarajupalem, S. Rayavaram Mandal, Visakhapatnam District, to me, in terms of Section 82 of A.P. Charitable and Hindu religious institutions and Endowments Act, 1987.

Counsel for the Petitioner: MR. NANDIGAM KRISHANA RAO

Counsel for the Respondent No.1: Smt. N. INDRANI

Counsel for the Respondent No.2: G.P. for Endowments.

The Court made the following :

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ORDER:

The petitioner claims to be the tenant in respect of Acs.4-76 cents of land in

Survey No.19 situated at Linarajupalem, S. Rayavaram Mandal, Visakhapatnam District, belonging to the 1st respondent-Sri Anna Praneswara Swamy Temple. It is stated that he has been in possession of the said land for the past several years and that he has been regularly paying the *maktha*. He states that he raised Sugarcane this year and there is standing crop on the land.

The writ petition is filed alleging that the 1st respondent has proposed to conduct the auction of the leasehold rights of the land in his possession without terminating the tenancy. The auction was initially proposed to be conducted on 14-05-2004. In the circumstances, he filed this writ petition seeking a declaration that the action of the 1st respondent in proposing to conduct the auction as arbitrary and illegal.

On 12-05-2004 this Court while directing notice before admission, ordered that if any auction is conducted, it will be subject to the final orders in the writ petition. It appears that the auction did not take place on 14-05-2004 and a fresh auction notice has been issued on 17-07-2004 proposing to conduct the auction on 28-07-2004.

I have heard the learned counsel for the petitioner and the learned standing counsel appearing for the 1st respondent.

It is relevant to note that in the counter affidavit filed on behalf of the 1st respondent, it is stated that the

1st respondent issued a notice on 28-04-2004 under Section

82(1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, by virtue of which the lease in favour of the petitioner stood cancelled. It is also stated that the petitioner never made any claim before the competent authority claiming that he is a landless poor person and therefore the 1st respondent is justified in putting the leasehold rights to public auction.

On the other hand, learned counsel for the petitioner submits that the petitioner is not aware of the termination of his lease under the notice dated 25-04-2003 and since he is a landless poor person an opportunity may be afforded to enable him to get his status determined.

Having regard to the facts and circumstances of the case and particularly keeping in view that admittedly the petitioner is in possession of the land in question, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to make an application before the 2nd respondent - Assistant Commissioner of Endowments within two weeks from today with regard to his claim that he is a landless poor person. If such a claim is made, the same shall be considered in accordance with law and appropriate orders shall be passed within two weeks thereafter. Till appropriate orders are passed by the Assistant Commissioner of Endowments, Visakhapatnam District, the petitioner shall not be dispossessed from the land in question and the

1st respondent is also directed not to conduct any auction in respect of leasehold rights till then. It is made clear that in the meanwhile the petitioner shall pay the *maktha* as per the prevailing market value.

The Writ Petition is accordingly disposed of. No order as to costs.

..... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Manager

Sri Anna Praneswara Swamy Temple,

Lingarajupalem, S. Rayavaram Mandal,

Visakhapatnam District.

2. The Assistant Commissioner of Endowments

Visakhapatnam, Visakhapatnam District.

3. The Commissioner of Endowments,

Andhra Pradesh, Hyderabad.

4. Two C.Cs. to G.P. for Endowments, High Court of A.P.,

Hyderabad.(O.U.T.)

5. Two C.D. copies

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